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January 15, 2024

VIA ECF

Hon. Steven I. Locke
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *SiteOne Landscape Supply, LLC v. Nicholas Giordano, et al.*
Case No.: 2:23-cv-2084-GRB-SIL

Dear Judge Locke,

This firm represents all Defendants in the above-reference action. On January 9, 2025, Plaintiff filed a Joint Status Report (the "Joint Status Report," Dkt. 183), on behalf of all parties, pursuant to the Court's October 15, 2024 Order ("Order," Dkt. 178). Defendants write to correct the following inaccuracies in the Joint Status Report:

1. The Court's Order required, among other things, a manual search of texts "from October 19, 2022 to present." In our portion of the Joint Status Report (and the meet and confer with opposing counsel on January 8, 2025), we initially understood that Nick's text data was only preserved back to April 2023 based on our review of a bar chart, starting in October 2022, that had small scaling which made it appear that there were no text messages between October 2022 and March 2023. However, after further consultation with our e-discovery vendor, we learned that, in reality, Nick's text data, in fact, dates back to November 4, 2020, well beyond the relevant look back date of October 19, 2022.¹ Attached, as Exhibit A, is an "Advanced Report" pertaining to Nick's cell phone showing the total number of messages with the earliest date being "2020-11-04." All Nick's text data between Nick, on the one hand, and Don and/or Vic, on the other hand, were manually reviewed for the entire relevant time period.
2. Also, Defendants previously stated that they reviewed 42,939 messages. After further consulting with our e-discovery consultant, we have since learned that this figure

¹ This lawsuit was not even started until March 17, 2023.

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actually represents the number of “conversations” and not individual messages (“conversations” contain multiple messages within a thread). A “conversation” may contain one message or multiple messages. Accordingly, the total number of individual messages collected from the Defendants and reviewed was actually 157,404.

3. Finally, in the Joint Status letter referenced above, SiteOne states that “Nick’s manual deletion of all data preceding April 2023 is significant because October 2022 through April 2023 is where Defendants were clandestinely stealing SiteOne’s trade secrets...” As is typical of SiteOne in this litigation, they “shoot from the hip.” There is no support for SiteOne’s statement.

We sent SiteOne a separate letter in follow up to the January 8, 2025 conference (Exhibit B hereto), which expands on some of the issues raised in the Joint Status Report.

We hope this clarifies the Joint Status Report and thank the Court its attention to this matter.

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

/s/ Colleen O’Neil

Encl.

cc: All counsel of record via ECF.